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Jean-Yves Cavaille

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09/03/2010

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EXAMINER

DOUYETTE, KENNETH J

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1, 3-7 and 9-36 are pending in the application.
2. Previous grounds of rejection have been maintained.

### ***Response to Arguments***

3. Applicant's arguments filed 8/30/2010 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues Cantiani does not disclose reinforcing materials enhancing mechanical strength. However, at C1/L35-38, the mechanical strength of cellulose

microfibrils is disclosed. Further, incorporation of these materials into a battery is disclosed at C10/62. Thus, the use of cellulose microfibrils to enhance mechanical strength of battery components is disclosed by Cantiani.

Applicant argues Cantiani does not disclose or suggest a reinforcing agent comprised of cellulose microfibrils forming a reinforcing agent network in an ionic conduction material from the cellulose microfibrils being brought into contact with a polymer of a polymer matrix. Examiner agrees with this statement, however, the Cantiani reference is not relied upon for disclosure of the polymer and therefore is not relied upon for contact between the reinforcing material and polymer.

Applicant argues Armand discloses an enhancement of mechanical properties without using any reinforcing agent. Examiner agrees with this statement, however, the Armand reference is not relied upon for disclosure of the reinforcing material. Rather, it is the combination of the Cantiani and Armand references that discloses the limitation of the contact between a reinforcing material and polymer. Further, an obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not. *Leapfrog Enterprises Inc. v. Fisher-Price Inc.*, 82 USPQ2d 1687 (Fed. Cir. 2007); see also *KSR v. Teleflex*, 82 USPQ2d 1385, 127 S. Ct. 1727 (2007).

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KENNETH DOUYETTE whose telephone number is (571)270-1212. The examiner can normally be reached on Monday - Thursday 6am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Basia Ridley can be reached on (571) 272-1453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. D./  
Examiner, Art Unit 1795

/Jonathan Crepeau/  
Primary Examiner, Art Unit 1795